

Notice of Allowability

Application No.

09/773,263

Applicant(s)

KUNKEL ET AL.

Examiner

Art Unit

Scott Beliveau

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/27/06.
2. ☒ The allowed claim(s) is/are 3 and 26-28 (renumbered as 4 and 1-3).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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EXAMINER'S AMENDMENT

Miscellaneous

1. Please note that the examination art unit for this application has changed from Art Unit 2614 to Art Unit 2623.

Examiner's Amendment

2. Authorization for this examiner's amendment was given in a telephone interview with Steven Guzzi on 10 April 2006.
3. The application has been amended in order to improve the consistency of the claim language as follows:

Claim 3 has been amended to read:

- The system of claim 26, wherein said digital information stream is a video information stream, said broadcast distribution system is a cable television distribution system, and said terminal devices are each a set top converter box.

Allowable Subject Matter

4. Claims 3 and 26-28 are allowed.
5. The following is an examiner's statement of reasons for allowance.

As previously set forth in the Final rejection mailed, 24 January 2006, the art of record either alone or in combination fails to disclose or suggest that "each of the plurality of advertisements compris[es] a continuous stream of I-frames for a predetermined amount of time at the beginning and end of each advertisement" as set forth in applicant's arguments of

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06 June 2005. The art of record provides evidence as to the particular usage of singular I-frames starting and ending advertisements in connection with splicing (ex. Pico et al.).

While Pico et al. may provide for continuous I-frames associated with the ending of the video program an start of the advertisement (likewise at the end of the advertisement and the start of the video programming) such does not provide for the stream of continuous I-frames to be encoded for the advertisement itself for a predetermined amount of time. The art of record further provides evidence that it is known to provide continuous streams of I-frames for the presentation of enhanced content (ex. Bisdikian et al.), however the particular presentation of this information is not based upon targeted criteria or for advertising purposes. It is further commonly known in the art that the particular rate at which I-frames are inserted into an MPEG stream decreases acquisition latency. However, it is the examiner's position that the art of record, taken as a whole, would not have suggested the specific transmission of continuous streams of I-frames for a predetermined period of time at both the beginning and end for each advertisement as claimed without engaging in impermissible hindsight.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343.

The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SEB
April 10, 2006

Scott Beliveau
Examiner
Art Unit 2623